

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ROBERT RUNGE, JOELL RUNGE, and
REBECCA RUNGE,

Plaintiffs,
v.

DECISION AND ORDER
09-CV-792A

ERIE INSURANCE GROUP a/k/a
ERIE INSURANCE COMPANY,

Defendant.

This case was referred to Magistrate Judge Hugh B. Scott, pursuant to 28 U.S.C. § 636(b)(1). On March 25, 2010, defendants filed a motion for judgment on the pleadings (Dkt. No. 24). On May 24, 2010, Magistrate Judge Scott filed a Report and Recommendation (Dkt. No. 35), recommending that defendant's motion be granted in part to dismiss that portion of plaintiffs' first cause of action demanding punitive damages; and recommending that the motion otherwise be denied.

Defendant filed objections to the Report and Recommendation on June 7, 2010. Plaintiff filed a response to defendant's objections on July 6, 2010 but did not object to Magistrate Judge Scott's recommendation regarding punitive damages. Defendants filed reply papers on July 13, 2010. The Court has deemed oral argument unnecessary and has considered the motion submitted on papers pursuant to Rule 78(b) of the Federal Rules of Civil Procedure.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a *de novo* determination of those portions of the Report and Recommendation to which objections have been made. Upon a *de novo* review of the Report and Recommendation, and after reviewing the submissions from the parties, the Court adopts the proposed findings of the Report and Recommendation.

Accordingly, for the reasons set forth in Magistrate Judge Scott's Report and Recommendation, the Court grants defendant's motion for judgment on the pleadings (Dkt. No. 24) in part to dismiss that portion of plaintiffs' first cause of action demanding punitive damages; but otherwise denies the motion.

This case is referred back to Magistrate Judge Scott for further proceedings.

SO ORDERED.

s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT JUDGE

DATED: February 22, 2011